

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**SUNQUEST PROPERTIES, INC. and
CARRIAGE HOUSE APARTMENTS
PARTNERSHIP,**

PLAINTIFFS

v.

Civil Action No. 1:08-CV-687-LTS-RHW

**NATIONWIDE PROPERTY AND
CASUALTY INSURANCE COMPANY
and JOHN DOES 1-5,**

DEFENDANTS

**MOTION FOR LEAVE TO SUPPLEMENT
REPLY IN SUPPORT OF MOTION FOR SANCTIONS**

COMES NOW Defendant Nationwide Property and Casualty Insurance Company (“Nationwide”) and files this Motion for Leave to Supplement Reply in Support of Motion for Sanctions. In support thereof, Nationwide states as follows:

1. On December 10, 2009, Nationwide filed a Motion for Sanctions. On December 22, 2009, Nationwide filed a reply memorandum in support of its Motion.

2. Nationwide continues to believe that sanctions, up to and including dismissal of this action, are appropriate in light of Plaintiffs’ discovery abuses and related misconduct. Nationwide respectfully moves for leave to supplement its Reply in Support of Motion for Sanctions, however, to include as Exhibits the recent depositions of Mr. Lewis O’Leary and Mr. Ralph Brockman in the matter of *Sunquest Properties, Inc. & Compass Pointe Apartments Partnership v. Nationwide Prop. and Cas. Ins. Co.*, 1:08-CV-692-LTS-RHW.

3. In their Response to Nationwide’s Motion for Sanctions, Plaintiffs represented to the Court that Mr. O’Leary has always been paid on an hourly basis, that he has no financial stake in the outcome of the matter, that Mr. Brockman did not misrepresent Mr. O’Leary’s fee arrangement in his prior deposition testimony, and that an extension of the discovery deadline to

permit Mr. O'Leary to create new wind damage estimates would avoid prejudice to Nationwide and delay of the trial.

4. The above-noted deposition transcripts directly contradict or substantially undermine each of the above representations.

5. Nationwide therefore respectfully submits that its Motion for Leave to Supplement is made in good faith and not for purposes of delay or harassment, but is made in order to provide the Court with all available facts which may be relevant in the Court's decision on Nationwide's Motion for Sanctions.

6. Nationwide further states that the granting of this Motion will not prejudice the Plaintiffs, as the proposed Supplement does not raise any new arguments that have not already been briefed.

WHEREFORE, PREMISES CONSIDERED, Nationwide respectfully prays that its Motion for Leave to Supplement be granted, and that the Court consider the proposed Supplement to Nationwide's Reply in Support of Motion for Sanctions, attached hereto as Exhibit "A."

THIS, the 26th day of January, 2010.

Respectfully submitted,

NATIONWIDE PROPERTY AND CASUALTY
INSURANCE COMPANY, DEFENDANT

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CERTIFICATE OF SERVICE

I certify that I have this day electronically filed the foregoing using the Court's ECF system, which sent electronic notification of such filing to:

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This the 26th day of January, 2010.

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